



General Assembly

Substitute Bill No. 650

January Session, 2009

* SB00650JUD__040209__ *

AN ACT CONCERNING THE CREATION OF A TRUST FOR THE CARE OF AN ANIMAL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) A testamentary or
2 inter vivos trust may be created to provide for the care of an animal or
3 animals alive during the settlor's lifetime. Such trust shall terminate
4 upon the death of the last surviving animal.

5 (b) A trust created under this section shall not be valid unless
6 approved by the Probate Court, upon a finding by the Probate Court
7 that the terms of the trust instrument are reasonable under the
8 circumstances. If the Probate Court finds that the terms of the trust
9 instrument are not reasonable under the circumstances, the Probate
10 Court may order that the terms of the trust instrument be modified to
11 ensure that they are reasonable under the circumstances. Upon
12 approving the terms of the trust instrument pursuant to this
13 subsection, the Probate Court shall provide notice of such approval to
14 the Attorney General.

15 (c) A trust created under this section may be enforced by a person
16 appointed in the terms of the trust instrument or, if no person is so
17 appointed, by a person appointed by the Probate Court. The Attorney
18 General or any person having an interest in the welfare of the animal
19 may petition the Probate Court to appoint a person to enforce the trust

20 or to remove a person so appointed. The person appointed to enforce
21 the trust shall have the rights of a trust beneficiary for the purpose of
22 enforcing the trust, including the right to receive accountings, notices
23 and other information from the trustee and the right to provide
24 consent related to the care of the animal.

25 (d) If a trustee is not designated or a designated trustee is not
26 willing or able to serve as trustee, the Probate Court (1) shall name a
27 trustee, and (2) may order the transfer of trust property to a successor
28 trustee if the Probate Court makes a factual finding that such transfer
29 is necessary to ensure the intended use of the trust property is carried
30 out.

31 (e) Whenever a trustee is required to give a bond for the
32 performance of the trustee's duties, the Attorney General may file a
33 petition with the probate court of the district in which such trust
34 property is situated, or where the trustee resides, for the fixing,
35 accepting and approving of a bond to the state, conditioned on the
36 proper discharge of the duties of such trustee, which bond shall be
37 filed in the office of such probate court.

38 (f) If the Attorney General determines that the trustee is not
39 properly discharging his or her duties as trustee, the Attorney General
40 may file a petition in the Probate Court for the removal of the trustee
41 and appointment of a successor trustee. The Probate Court shall grant
42 such petition if the Probate Court determines that such removal is
43 necessary because of the trustee's failure to perform his or her duties as
44 trustee. The Probate Court shall order the transfer of trust property to
45 the successor trustee immediately upon his or her appointment and
46 qualification.

47 (g) Trust property may be applied only to its intended use, subject
48 to usual trust expenses including trust funds and commissions, except
49 to the extent the Probate Court determines that the value of the trust
50 property exceeds the amount required for its intended use. Trust
51 property not required for its intended use, including trust property

52 remaining upon termination of the trust, shall be distributed in the
53 following order of priority:

54 (1) As directed by the terms of the trust instrument;

55 (2) To the settlor, if then living;

56 (3) Pursuant to the residuary clause of the settlor's will; or

57 (4) To the settlor's heirs in accordance with the provisions of the
58 general statutes governing descent and distribution.

59 (h) Except as otherwise provided in this section, the provisions of
60 the general statutes governing the creation and administration of trusts
61 shall apply to a trust created to provide for the care of an animal
62 pursuant to this section.

63 Sec. 2. Section 45a-484 of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2009*):

65 (a) Except as otherwise provided by the trust or section 45a-520 with
66 respect to charitable trusts, a probate court having jurisdiction under
67 this section may terminate a trust, in whole or in part, on application
68 therefor by the trustee, by any beneficiary entitled to income from the
69 trust, [or] by such beneficiary's legal representative, by the Attorney
70 General with respect to a trust created under section 1 of this act, or by
71 any person having an interest in the welfare of an animal subject to a
72 trust created under section 1 of this act, after reasonable notice to all
73 beneficiaries who are known and in being and who have vested or
74 contingent interests in the trust, and after holding a hearing, if the
75 court determines that all of the following apply: (1) The continuation
76 of the trust is (A) uneconomic when the costs of operating the trust,
77 probable income and other relevant factors are considered, or (B) not
78 in the best interest of the beneficiaries; (2) the termination of the trust is
79 equitable and practical; and (3) the current market value of the trust
80 does not exceed the sum of one hundred thousand dollars.

81 (b) If the probate court orders termination of the trust, in whole or

82 in part, it shall direct that the principal and undistributed income be
83 distributed to the beneficiaries in such manner as the probate court
84 determines is equitable. The probate court may also make such other
85 order as it deems necessary or appropriate to protect the interests of
86 the beneficiaries.

87 (c) No trust may be terminated over the objection of its settlor or
88 where the interest of the beneficiaries cannot be ascertained. The
89 provisions of this section shall not apply to spendthrift trusts.

90 (d) A probate court may terminate a testamentary trust pursuant to
91 this section if the probate court has jurisdiction over the accounts of the
92 testamentary trustee. A probate court may terminate an inter vivos
93 trust pursuant to this section if the trustee or settlor has his or its
94 principal place of business in, or resides in, that probate district.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	45a-484

JUD *Joint Favorable Subst.*